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**HOUSE BILL 925**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003**

**INTRODUCED BY**

W. Ken Martinez

**AN ACT**

**RELATING TO MOTOR VEHICLE CODE VIOLATIONS; CHANGING CERTAIN  
MISDEMEANORS TO CIVIL VIOLATIONS; INCREASING CERTAIN FINES AND  
FEES; CLARIFYING PROVISIONS CONCERNING THE BLOCKING OF TRAFFIC;  
PROVIDING FOR PENALTIES.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 35-6-1 NMSA 1978 (being Laws 1968,  
Chapter 62, Section 92, as amended by Laws 2001, Chapter 277,  
Section 2 and also by Laws 2001, Chapter 279, Section 2) is  
amended to read:**

**"35-6-1. MAGISTRATE COSTS-- SCHEDULE-- DEFINITION OF  
"CONVICTED". --**

**A. Magistrate judges, including metropolitan court  
judges, shall assess and collect and shall not waive, defer or  
suspend the following costs:**

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1 docket fee, criminal actions under Section 29-5-1 NMSA  
2 1978 . . . . . \$ 1.00;  
3 docket fee, to be collected prior to docketing any other  
4 criminal action, except as provided in Subsection B  
5 of Section 35-6-3 NMSA 1978 . . . . . 20.00.  
6 Proceeds from this docket fee shall be transferred  
7 to the administrative office of the courts for  
8 deposit in the court facilities fund;  
9 docket fee, ten dollars (\$10.00) of which shall be  
10 deposited in the court automation fund and fifteen  
11 dollars (\$15.00) of which shall be deposited in the  
12 civil legal services fund, to be collected prior to  
13 docketing any civil action, except as provided in  
14 Subsection A of Section 35-6-3 NMSA 1978 . . . 62.00;  
15 jury fee, to be collected from the party demanding trial  
16 by jury in any civil action at the time the demand  
17 is filed or made . . . . . 25.00;  
18 copying fee, for making and certifying copies of any  
19 records in the court, for each page copied by  
20 photographic process . . . . . .50.  
21 Proceeds from this copying fee shall be transferred  
22 to the administrative office of the courts for  
23 deposit in the court facilities fund; and  
24 copying fee, for computer-generated or electronically  
25 transferred copies, per page . . . . . 1.00.

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1 Proceeds from this copying fee shall be transferred  
2 to the administrative office of the courts for  
3 deposit in the court automation fund.

4 Except as otherwise specifically provided by law, docket  
5 fees shall be paid into the court facilities fund.

6 B. Except as otherwise provided by law, no other  
7 costs or fees shall be charged or collected in the magistrate  
8 or metropolitan court.

9 C. The magistrate or metropolitan court may grant  
10 free process to any party in any civil proceeding or special  
11 statutory proceeding upon a proper showing of indigency. The  
12 magistrate or metropolitan court may deny free process if it  
13 finds that the complaint on its face does not state a cause of  
14 action.

15 D. As used in this subsection, "convicted" means  
16 the defendant has been found guilty of a criminal charge by the  
17 magistrate or metropolitan judge, either after trial, a plea of  
18 guilty or a plea of nolo contendere. Magistrate judges,  
19 including metropolitan court judges, shall assess and collect  
20 and shall not waive, defer or suspend the following costs:

21 (1) corrections fee [~~in any county without a~~  
22 ~~metropolitan court~~] to be collected upon conviction from  
23 persons convicted of violating any provision of the Motor  
24 Vehicle Code involving the operation of a motor vehicle,  
25 convicted of a crime constituting a misdemeanor or a petty

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1 misdemeanor or convicted of violating any ordinance that may be  
2 enforced by the imposition of a term of imprisonment

3 in a county without a metropolitan court . . . . \$20.00;

4 in a county with a metropolitan court . . . . [\$]10.00;

5 (2) court automation fee, to be collected upon  
6 conviction from persons convicted of violating any provision of  
7 the Motor Vehicle Code involving the operation of a motor  
8 vehicle, convicted of a crime constituting a misdemeanor or a  
9 petty misdemeanor or convicted of violating any ordinance that  
10 may be enforced by the imposition of a term of imprisonment  
11 . . . . . 10.00;

12 (3) traffic safety fee, to be collected upon  
13 conviction from persons convicted of violating any provision of  
14 the Motor Vehicle Code involving the operation of a motor  
15 vehicle . . . . . 3.00;

16 (4) judicial education fee, to be collected  
17 upon conviction from persons convicted of operating a motor  
18 vehicle in violation of the Motor Vehicle Code, convicted of a  
19 crime constituting a misdemeanor or a petty misdemeanor or  
20 convicted of violating any ordinance punishable by a term of  
21 imprisonment . . . . . 1.00;

22 (5) brain injury services fee, to be collected  
23 upon conviction from persons convicted of violating any  
24 provision of the Motor Vehicle Code involving the operation of  
25 a motor vehicle . . . . . 5.00;

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1 and

2 (6) court facilities fee, to be collected upon  
3 conviction from persons convicted of violating any provision of  
4 the Motor Vehicle Code involving the operation of a motor  
5 vehicle, convicted of a crime constituting a misdemeanor or a  
6 petty misdemeanor or convicted of violating any ordinance that  
7 may be enforced by the imposition of a term of imprisonment as  
8 follows:

- 9 in a county with a metropolitan court . . . . . 24.00;
- 10 in any other county . . . . . 10.00.

11 E. Metropolitan court judges shall assess and  
12 collect and shall not waive, defer or suspend as costs a  
13 mediation fee not to exceed five dollars (\$5.00) for the  
14 docketing of small claims and criminal actions specified by  
15 metropolitan court rule. Proceeds of the mediation fee shall  
16 be deposited into the metropolitan court mediation fund."

17 Section 2. Section 66-5-205 NMSA 1978 (being Laws 1983,  
18 Chapter 318, Section 6, as amended) is amended to read:

19 "66-5-205. VEHICLE MUST BE INSURED OR OWNER MUST HAVE  
20 EVIDENCE OF FINANCIAL RESPONSIBILITY--PENALTIES.--

21 A. No owner shall permit the operation of an  
22 uninsured motor vehicle, or a motor vehicle for which evidence  
23 of financial responsibility as was affirmed to the department  
24 is not currently valid, upon the streets or highways of New  
25 Mexico unless the vehicle is specifically exempted from the

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1 provisions of the Mandatory Financial Responsibility Act.

2 B. No person shall drive an uninsured motor  
3 vehicle, or a motor vehicle for which evidence of financial  
4 responsibility as was affirmed to the department is not  
5 currently valid, upon the streets or highways of New Mexico  
6 unless he is specifically exempted from the provisions of the  
7 Mandatory Financial Responsibility Act.

8 C. For the purposes of the Mandatory Financial  
9 Responsibility Act, "uninsured motor vehicle" means a motor  
10 vehicle for which a motor vehicle insurance policy meeting the  
11 requirements of the laws of New Mexico and of the secretary, or  
12 a surety bond or evidence of a sufficient cash deposit with the  
13 state treasurer, is not in effect [~~or a surety bond or evidence~~  
14 ~~of a sufficient cash deposit with the state treasurer~~].

15 D. The provisions of the Mandatory Financial  
16 Responsibility Act requiring the deposit of evidence of  
17 financial responsibility as provided in Section 66-5-218 NMSA  
18 1978, subject to certain exemptions, may apply with respect to  
19 persons who have been convicted of or forfeited bail for  
20 certain offenses under motor vehicle laws or who have failed to  
21 pay judgments or written settlement agreements upon causes of  
22 action arising out of ownership, maintenance or use of vehicles  
23 of a type subject to registration under the laws of New Mexico.

24 E. Any person who violates the provisions of this  
25 section is [~~guilty of a misdemeanor and upon conviction shall~~

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1 ~~be sentenced to a fine]~~ subject to a civil penalty not to  
2 exceed [three hundred dollars (\$300)] five hundred dollars  
3 (\$500). "

4 Section 3. Section 66-5-229 NMSA 1978 (being Laws 1978,  
5 Chapter 35, Section 318, as amended) is amended to read:

6 "66-5-229. DURATION OF EVIDENCE--WHEN FILING OF EVIDENCE  
7 MAY BE WAIVED. --

8 A. The department shall, upon request, consent to  
9 the immediate cancellation of any bond or the department shall  
10 direct and the state treasurer shall return to the person  
11 entitled thereto any money deposited pursuant to the Mandatory  
12 Financial Responsibility Act as evidence of financial  
13 responsibility or the department shall waive the requirement of  
14 filing evidence of financial responsibility in any of the  
15 following events:

16 (1) after one year of providing satisfactory  
17 evidence as specified in Section 66-5-218 NMSA 1978;

18 (2) the death of the person on whose behalf  
19 evidence was filed or the permanent incapacity of the person to  
20 operate a motor vehicle; or

21 (3) the person who has filed evidence  
22 surrenders his license and registration to the department.

23 B. [~~Provided, however, that~~] The department shall  
24 not consent to the cancellation of any bond or the return of  
25 any money or waive the requirement of filing evidence of

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1 financial responsibility in the event any action for damages  
2 upon a liability covered by the evidence is then pending or any  
3 judgment upon any such liability is then unsatisfied or in the  
4 event the person who has filed the bond or deposited the money  
5 has, within one year immediately preceding the request, been  
6 involved as a driver or owner in any motor vehicle accident  
7 resulting in injury or damage to the person or property of  
8 others. An affidavit of the applicant as to the nonexistence  
9 of such facts or that he has been released from all of his  
10 liability or has been finally adjudicated not to be liable for  
11 such injury or damage shall be sufficient evidence thereof in  
12 the absence of evidence to the contrary in the records of the  
13 department.

14 C. Every owner or operator of a vehicle subject to  
15 the requirements of the Mandatory Financial Responsibility Act  
16 shall carry evidence of financial responsibility as defined by  
17 that act in the vehicle at all times while the vehicle is in  
18 operation on the highways of this state. [~~The failure~~] A  
19 person who fails to comply with this subsection [~~shall be a~~  
20 ~~misdemeanor and shall be punishable by the~~] is subject to the  
21 civil penalty set forth in Section 66-8-7 NMSA 1978; provided  
22 that no person charged with violating this section [~~shall be~~  
23 ~~convicted~~] is subject to the civil penalty if he produces in  
24 court evidence of financial responsibility valid at the time of  
25 issuance of the citation."

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1 Section 4. Section 66-5-231 NMSA 1978 (being Laws 1978,  
2 Chapter 35, Section 321, as amended) is amended to read:

3 "66-5-231. FORGED EVIDENCE. --Any person who forges or,  
4 without authority, signs any evidence of financial  
5 responsibility or who files or offers for filing any such  
6 evidence knowing or having reason to believe that it is forged  
7 or signed without authority is guilty of a misdemeanor and  
8 shall be fined not more than one thousand dollars (\$1,000) or  
9 imprisoned for not more than one year or both in accordance  
10 with the provisions of Section 31-19-1 NMSA 1978. "

11 Section 5. Section 66-7-3 NMSA 1978 (being Laws 1978,  
12 Chapter 35, Section 373) is amended to read:

13 "66-7-3. REQUIRED OBEDIENCE TO TRAFFIC LAWS. --It is  
14 unlawful and, unless otherwise declared in the Motor Vehicle  
15 Code with respect to particular offenses, it is a [~~misdemeanor~~]  
16 civil violation for any person to do any act forbidden or fail  
17 to perform any act required in [~~Article 7 of~~] Chapter [~~64 NMSA~~  
18 ~~1953~~] 66, Article 7 NMSA 1978. "

19 Section 6. Section 66-7-202 NMSA 1978 (being Laws 1978,  
20 Chapter 35, Section 391) is amended to read:

21 "66-7-202. ACCIDENTS INVOLVING DAMAGE TO VEHICLE. --The  
22 driver of any vehicle involved in an accident resulting only in  
23 damage to a vehicle [~~which~~] that is driven or attended by any  
24 person shall immediately stop [~~such~~] the vehicle off the  
25 traveled portion of the highway at the scene of [~~such~~] the

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1 accident or as close thereto as possible but shall forthwith  
2 return to and in every event shall remain at the scene of  
3 ~~[such]~~ the accident until he has fulfilled the requirements of  
4 Section ~~[64-7-203 NMSA 1953]~~ 66-7-203 NMSA 1978. Every such  
5 stop shall be made without obstructing traffic more than is  
6 necessary in accordance with Section 66-3-852 NMSA 1978. Any  
7 person failing to stop or comply with ~~[said]~~ the requirements  
8 of Section 66-7-203 NMSA 1978 under such circumstances ~~[shall~~  
9 ~~be]~~ is guilty of a misdemeanor and shall be sentenced pursuant  
10 to the provisions of Section 31-19-1 NMSA 1978. "

11 Section 7. Section 66-7-204 NMSA 1978 (being Laws 1953,  
12 Chapter 139, Section 42) is amended to read:

13 "66-7-204. DUTY UPON STRIKING UNATTENDED VEHICLE. --The  
14 driver of any vehicle ~~[which]~~ that collides with any vehicle  
15 ~~[which]~~ that is unattended shall immediately stop off the  
16 traveled portion of the highway and shall ~~[then and there]~~  
17 either locate and notify the operator or owner of such vehicle  
18 of the name and address of the driver and owner of the vehicle  
19 striking the unattended vehicle or shall leave in a conspicuous  
20 place in the vehicle struck a written notice giving the name  
21 and address of the driver and of the owner of the vehicle doing  
22 the striking and a statement of the circumstances ~~[thereof]~~. A  
23 stop shall be made without obstructing traffic more than  
24 necessary in accordance with the provisions of Section 66-3-852  
25 NMSA 1978. "

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1           Section 8.   Section 66-7-303.1 NMSA 1978 (being Laws 1985,  
2 Chapter 188, Section 3, as amended) is amended to read:

3           "66-7-303.1.   CONSTRUCTION ZONES--TRAFFIC CONTROL  
4 DEVICES--PENALTY. --

5           A.   When construction, repair or reconstruction of  
6 any street or highway is being done, the state highway and  
7 transportation department or the local authority with  
8 jurisdiction over that street or highway is authorized to  
9 designate as a construction zone that portion of the street or  
10 highway where construction, reconstruction or repair is being  
11 done and to close the construction zone to traffic or to  
12 provide for a single lane of traffic on any two-lane or four-  
13 lane highway in the construction zone.

14           B.   The state highway and transportation department  
15 or any local authority closing all or a portion of a street or  
16 highway or providing for a single lane of traffic on any two-  
17 lane or four-lane street or highway pursuant to Subsection A of  
18 this section shall erect or cause to be erected traffic-control  
19 devices or barricades to warn and notify the public of any  
20 change in speed limit and that such street or highway is closed  
21 or limited to a single lane of traffic.

22           C.   Every pedestrian or person who operates a  
23 vehicle on any street or highway shall obey all signs, signals,  
24 markings, flagmen or other traffic-control devices that are  
25 placed to regulate, control and guide traffic through a

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1 construction zone.

2 D. No person shall remove, change, modify, deface  
3 or alter any traffic-control device or barricade [~~which~~] that  
4 has been erected on any street or highway pursuant to this  
5 section.

6 E. Any person who violates any provision of  
7 Subsection [~~C or~~] D of this section is guilty of a misdemeanor  
8 and upon conviction shall be sentenced in accordance with  
9 Section [~~66-8-7~~] 31-19-1 NMSA 1978. "

10 Section 9. Section 66-7-367 NMSA 1978 (being Laws 1969,  
11 Chapter 169, Section 10) is amended to read:

12 "66-7-367. IMPROPER OPENING OF DOORS. --It is [~~a~~  
13 ~~misdemeanor~~] unlawful for any person to:

14 A. open the door of a vehicle on the side near  
15 moving traffic unless:

16 (1) it is reasonably safe to do so; and

17 (2) the door can be opened without interfering  
18 with the movement of traffic; or

19 B. leave a door of a vehicle open on the side of  
20 the vehicle near moving traffic for a period of time longer  
21 than necessary to load or unload passengers. "

22 Section 10. Section 66-7-401 NMSA 1978 (being Laws 1978,  
23 Chapter 35, Section 472) is amended to read:

24 "66-7-401. SCOPE AND EFFECT [~~OF ARTICLE~~]. --

25 A. It is [~~a misdemeanor~~] unlawful for any person to

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1 drive or move or for the owner, lessee or other person  
2 directing the operation to cause or permit to be driven or  
3 moved on any highway any vehicle [~~or vehicles~~] of a size or  
4 weight exceeding the limitations stated in Sections [~~64-7-401~~  
5 ~~through 64-7-416 NMSA 1953~~] 66-7-401 through 66-7-416 NMSA 1978  
6 or otherwise in violation of [~~said~~] those sections, and the  
7 maximum size and weight of vehicles herein specified shall be  
8 lawful [~~throughout~~] throughout this state, and local  
9 authorities shall have no power or authority to alter [~~said~~]  
10 the limitations except as express authority may be granted in  
11 [~~said~~] Sections 66-7-401 through 66-7-416 NMSA 1978.

12 B. The provisions of Sections [~~64-7-401 through~~  
13 ~~64-7-416 NMSA 1953~~] 66-7-401 through 66-7-416 NMSA 1978  
14 governing size, weight and load shall not apply to fire  
15 apparatus, road machinery engaged in highway construction or  
16 maintenance or to implements of husbandry, including farm  
17 tractors, temporarily moved upon a highway or to a vehicle  
18 operated under the terms of a special permit issued as herein  
19 provided. "

20 Section 11. Section 66-7-416 NMSA 1978 (being Laws 1978,  
21 Chapter 35, Section 487) is amended to read:

22 "66-7-416. LIABILITY FOR DAMAGE--UNLAWFUL USE OF  
23 HIGHWAYS--PENALTIES.--

24 A. The public highways in [~~the~~] this state are  
25 dedicated to the reasonable use thereof by the public.

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1           B. It [~~shall be~~] is unlawful for any person to  
2 injure or damage any public highway or street or any bridge,  
3 culvert, sign, signpost or structure upon or used or  
4 constructed in connection with any public highway or street for  
5 the protection thereof or for protection or regulation of  
6 traffic thereon by any [~~unusual~~] unusual, improper or  
7 unreasonable use thereof or by the careless driving or use of  
8 any vehicle thereon or by willful mutilation, defacing or  
9 destruction thereof.

10           C. It shall be considered unreasonable use of any  
11 bridge or structure to operate or conduct upon or over the  
12 [~~same~~] bridge or structure any vehicle, tractor or engine not  
13 in accordance with Sections [~~64-7-401 through 64-7-416 NMSA~~  
14 ~~1953~~] 66-7-401 through 66-7-416 NMSA 1978.

15           D. It shall be considered unreasonable use of any  
16 improved highway, roadway or street to operate, drive or haul  
17 thereon any truck, tractor or engine in such manner or at times  
18 when the surface thereof is in a soft or plastic condition and  
19 the road or portion thereof has been closed pursuant to law or  
20 by order of the state highway and transportation department.

21           E. It [~~shall be~~] is unlawful to erect or maintain  
22 any fence or any other structure across any street, highway or  
23 roadway without written permission from the authorities having  
24 control thereof.

25           F. Any person violating any provision of this

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1 section ~~[shall be guilty of a misdemeanor and upon conviction~~  
2 ~~shall be punished by a fine]~~ is subject to a civil penalty of  
3 not less than twenty-five dollars (\$25.00) nor more than one  
4 hundred dollars (\$100), ~~[or by imprisonment in the county jail~~  
5 ~~for not less than five days nor more than thirty days, or by~~  
6 ~~both such fine and imprisonment]~~ and the operator and the owner  
7 of [~~such~~] the vehicle, truck, tractor or engine from whom the  
8 driver or operator has permitted possession at the time thereof  
9 shall be jointly and severally liable to the state, county or  
10 municipality as the case may be for the actual damage caused by  
11 the operation, conducting or hauling thereof over any public  
12 highway, street, bridge, culvert or structure in violation of  
13 any provision of [~~this act~~] Sections 66-7-401 through 66-7-416  
14 NMSA 1978 to be collected by suit brought in the name of the  
15 state, county or municipality having control of [~~such~~] the  
16 highway or street; and [~~such~~] the vehicle, truck, tractor or  
17 engine may be attached and held to satisfy [~~and~~] any judgment  
18 for such damages.

19 G. The proceeds of any such judgment shall be paid  
20 to the treasurer of [~~the~~] this state or of such county or  
21 municipality and placed to the credit of a fund for the  
22 construction and ~~improvement~~ of roads or streets. "

23 Section 12. Section 66-8-7 NMSA 1978 (being Laws 1978,  
24 Chapter 35, Section 505, as amended) is amended to read:

25 "66-8-7. PENALTY [~~FOR MISDEMEANOR~~] ASSESSMENT. --

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1           A. It is a ~~[misdemeanor]~~ civil violation for any  
2 person to violate any provision of the Motor Vehicle Code  
3 unless the violation is declared a misdemeanor or felony.

4           B. Unless another penalty is specified in the Motor  
5 Vehicle Code, every person ~~[convicted of a misdemeanor for~~  
6 ~~violation of]~~ who violates any provision of the Motor Vehicle  
7 Code shall be ~~[punished by a fine]~~ subject to a civil penalty  
8 of not more than ~~[three hundred dollars (\$300) or by~~  
9 ~~imprisonment for not more than ninety days or both]~~ five  
10 hundred dollars (\$500). "

11           Section 13. Section 66-8-9 NMSA 1978 (being Laws 1978,  
12 Chapter 35, Section 507, as amended) is amended to read:

13           "66-8-9. PENALTY FOR MISDEMEANOR OR FELONY. --

14           A. A person convicted of violating a provision of  
15 the Motor Vehicle Code declared a misdemeanor, and punishment  
16 is not specified, shall be sentenced pursuant to the provisions  
17 of Section 31-19-1 NMSA 1978.

18           B. Any person convicted of violating any provision  
19 of the Motor Vehicle Code declared a felony, and punishment is  
20 not specified, is guilty of a fourth degree felony and shall be  
21 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
22 1978. "

23           Section 14. Section 66-8-10 NMSA 1978 (being Laws 1978,  
24 Chapter 35, Section 508) is amended to read:

25           "66-8-10. DUPLICATE OR REPLACEMENT REGISTRATION PLATE--

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1 CITATION-- FAILURE TO COMPLY. -- Any motor vehicle owner who has  
2 been issued a citation for an illegible registration plate and  
3 who fails to comply with the terms of the citation requiring  
4 the acquisition of a duplicate or replacement plate within  
5 thirty days of the date of the citation is [~~guilty of a~~  
6 ~~misdeemeanor~~] subject to a civil penalty of not more than three  
7 hundred dollars (\$300). "

8 Section 15. Section 66-8-114 NMSA 1978 (being Laws 1969,  
9 Chapter 169, Section 12) is amended to read:

10 "66-8-114. CARELESS DRIVING. --

11 A. Any person operating a vehicle on the highway  
12 shall give his full time and entire attention to the operation  
13 of the vehicle.

14 B. Any person who operates a vehicle in a careless,  
15 inattentive or imprudent manner without due regard for the  
16 width, grade, curves, corners, traffic, weather and road  
17 conditions and all other attendant circumstances is guilty of  
18 [~~a misdemeanor~~] careless driving. "

19 Section 16. Section 66-8-116 NMSA 1978 (being Laws 1978,  
20 Chapter 35, Section 524, as amended) is amended to read:

21 "66-8-116. PENALTY ASSESSMENT [~~MISDEMEANORS~~] VIOLATIONS-  
22 DEFINITION-- SCHEDULE OF ASSESSMENTS. --

23 A. As used in the Motor Vehicle Code, "penalty  
24 assessment [~~misdeemeanor~~] violation" means violation of any of  
25 the following listed sections of the NMSA 1978 for which,

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1 except as provided in Subsection D of this section, the listed  
2 penalty assessment is established:

3	COMMON NAME OF [OFFENSE]	SECTION VIOLATED	PENALTY
4	<u>VIOLATION</u>		ASSESSMENT
5	Permitting unlicensed		
6	minor to drive	66- 5- 40	\$ 10. 00
7	Failure to obey sign	66- 7- 104	10. 00
8	Failure to obey signal	66- 7- 105	10. 00
9	Speeding	66- 7- 301	
10	(1) up to		
11	and including ten		
12	miles an hour		
13	over the speed limit		15. 00
14	(2) from eleven up to		
15	and including fifteen		
16	miles an hour		
17	over the speed limit		30. 00
18	(3) from sixteen up to		
19	and including twenty		
20	miles an hour over the		
21	speed limit		65. 00
22	(4) from twenty-one up to		
23	and including twenty-five		
24	miles an hour over the		
25	speed limit		100. 00

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1	(5) from twenty-six up to		
2	and including thirty		
3	miles an hour over the		
4	speed limit		125.00
5	(6) from thirty-one up to		
6	and including thirty-five		
7	miles an hour over the		
8	speed limit		150.00
9	(7) more than thirty-five		
10	miles an hour over the		
11	speed limit		200.00
12	Unfastened safety belt	66- 7- 372	25.00
13	Child not in restraint device		
14	or seat belt	66- 7- 369	25.00
15	Minimum speed	66- 7- 305	10.00
16	Speeding	66- 7- 306	15.00
17	Improper starting	66- 7- 324	10.00
18	Improper backing	66- 7- 354	10.00
19	Improper lane	66- 7- 308	10.00
20	Improper lane	66- 7- 313	10.00
21	Improper lane	66- 7- 316	10.00
22	Improper lane	66- 7- 317	10.00
23	Improper lane	66- 7- 319	10.00
24	Improper passing	66- 7- 309 through 66- 7- 312	10.00
25	Improper passing	66- 7- 315	10.00

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1	Controlled access		
2	violation	66- 7- 320	10. 00
3	Controlled access		
4	violation	66- 7- 321	10. 00
5	Improper turning	66- 7- 322	10. 00
6	Improper turning	66- 7- 323	10. 00
7	Improper turning	66- 7- 325	10. 00
8	Following too closely	66- 7- 318	10. 00
9	Failure to yield	66- 7- 328 through 66- 7- 332	10. 00
10	Failure to yield	66- 7- 332. 1	25. 00
11	Pedestrian violation	66- 7- 333	10. 00
12	Pedestrian violation	66- 7- 340	10. 00
13	Failure to stop	66- 7- 341 through 66- 7- 346	10. 00
14	Passing school bus	66- 7- 347	100. 00
15	Failure to signal	66- 7- 325 through 66- 7- 327	10. 00
16	Failure to secure load	66- 7- 407	100. 00
17	Operation without oversize-		
18	overweight permit	66- 7- 413	50. 00
19	Improper equipment	66- 3- 801	10. 00
20	Improper equipment	66- 3- 901	20. 00
21	Improper emergency		
22	signal	66- 3- 853 through 66- 3- 857	10. 00
23	Operation interference	66- 7- 357	5. 00
24	Littering	66- 7- 364	300. 00
25	Improper parking	66- 7- 349 through 66- 7- 352	

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1		and 66-7-353	5.00
2	Improper parking	66-7-352.5	50.00
3	Improper parking	66-3-852	5.00
4	Failure to dim lights	66-3-831	10.00
5	Riding in or towing		
6	occupied house trailer	66-7-366	5.00
7	Improper opening of doors	66-7-367	5.00
8	No slow-moving vehicle		
9	emblem or flashing		
10	amber light	66-3-887	5.00
11	Open container - first		
12	violation	66-8-138	25.00.

13 B. The term "penalty assessment [~~misdeemeanor~~  
14 violation" does not include a violation that has caused or  
15 contributed to the cause of an accident resulting in injury or  
16 death to a person.

17 C. When an alleged violator of a penalty assessment  
18 [~~misdeemeanor~~] violation elects to accept a notice to appear in  
19 lieu of a notice of penalty assessment, [~~no~~] a fine imposed  
20 upon later conviction shall not exceed the penalty assessment  
21 established for the particular penalty assessment [~~misdeemeanor~~  
22 ~~and no probation imposed upon a suspended or deferred sentence~~  
23 ~~shall exceed ninety days~~] violation.

24 D. The penalty assessment for speeding in violation  
25 of Paragraph (4) of Subsection A of Section 66-7-301 NMSA 1978  
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1 is twice the penalty assessment established in Subsection A of  
2 this section for the equivalent miles per hour over the speed  
3 limit. "

4 Section 17. Section 66-8-116.1 NMSA 1978 (being Laws  
5 1989, Chapter 319, Section 12) is amended to read:

6 "66-8-116.1. PENALTY ASSESSMENT [~~MISDEMEANORS~~]  
7 VIOLATIONS--OVERSIZE LOAD. --As used in the Motor Vehicle Code  
8 and the Motor Carrier Act, "penalty assessment [~~misdemeanor~~]  
9 violation" means, in addition to the definition of that term in  
10 Section 66-8-116 NMSA 1978, violation of the following listed  
11 sections of the NMSA 1978 for which the listed penalty is  
12 established:

13	COMMON NAME OF [ <del>OFFENSE</del> ]	SECTION VIOLATED	PENALTY
14	<u>VIOLATION</u>		ASSESSMENT
15	Oversize load		
16	1,000 to 3,000 pounds	66-7-411	\$ 25.00
17	Oversize load		
18	3,001 to 4,000 pounds	66-7-411	40.00
19	Oversize load		
20	4,001 to 5,000 pounds	66-7-411	75.00
21	Oversize load		
22	5,001 to 6,000 pounds	66-7-411	125.00
23	Oversize load		
24	6,001 to 7,000 pounds	66-7-411	200.00
25	Oversize load		

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1	7,001 to 8,000 pounds	66-7-411	275.00
2	Oversize load		
3	8,001 to 9,000 pounds	66-7-411	350.00
4	Oversize load		
5	9,001 to 10,000 pounds	66-7-411	425.00
6	Oversize load		
7	over 10,000 pounds	66-7-411	500.00. "

8 Section 18. Section 66-8-116.2 NMSA 1978 (being Laws  
9 1989, Chapter 319, Section 13, as amended) is amended to read:

10 "66-8-116.2. PENALTY ASSESSMENT [~~MISDEMEANORS~~]

11 VIOLATIONS--MOTOR CARRIER ACT. --As used in the Motor Vehicle  
12 Code and the Motor Carrier Act, "penalty assessment  
13 [~~misdeemeanor~~] violation" means, in addition to the definitions  
14 of that term in Sections 66-8-116 and 66-8-116.1 NMSA 1978,  
15 violation of the following listed sections of the NMSA 1978 for  
16 which the listed penalty is established:

17 A. GENERAL

18 COMMON NAME OF [ <del>OFFENSE</del> ]	SECTION VIOLATED	PENALTY ASSESSMENT
--	------------------	--------------------

19 <u>VIOLATION</u>		
---------------------	--	--

20 Failure to register		
------------------------	--	--

21 motor carrier	65-1-12	\$100.00
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22 Failure to carry		
---------------------	--	--

23 identification card	65-1-26	50.00
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24 Failure to comply with		
---------------------------	--	--

25 [ <del>state corporation</del> ] <u>public</u>		
---	--	--

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1	<u>regulation</u> commission		
2	rules and regulations	65-2-83	50.00
3	Failure to register		
4	interstate motor		
5	carrier with [ <del>state</del>		
6	<del>corporation</del> ] <u>public</u>		
7	<u>regulation</u> commission	65-2-115	50.00
8	Failure to stop at		
9	designated		
10	registration place	65-5-1	100.00
11	Failure to obtain		
12	proper clearance		
13	certificates	65-5-3	100.00.

B. VEHICLE OUT-OF-SERVICE VIOLATIONS

15	COMMON NAME OF [ <del>OFFENSE</del> ]	SECTION VIOLATED	PENALTY ASSESSMENT
16	<u>VIOLATION</u>		
17	Absence of braking action	65-3-9	\$100.00
18	Damaged brake lining or pads	65-3-9	50.00
19	Loose or missing brake		
20	components	65-3-12	100.00
21	Inoperable breakaway braking		
22	system	65-3-12	50.00
23	Defective or damaged brake		
24	tubing	65-3-12	50.00
25	Inoperative low pressure		

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underscored material = new  
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1	warning device	65-3-9	50.00
2	Reservoir pressure not		
3	maintained	65-3-12	100.00
4	Inoperative tractor		
5	protection valve	65-3-9	100.00
6	Damaged or loose air		
7	compressor	65-3-12	100.00
8	Audible air leak at brake		
9	chamber	65-3-12	50.00
10	Defective safety devices--		
11	chains or hooks	65-3-9	100.00
12	Defective towing or coupling		
13	devices	65-3-9	100.00
14	Defective exhaust systems	65-3-9	30.00
15	Frame defects--trailers	65-3-12	100.00
16	Frame defects--other	65-3-9	100.00
17	Defective fuel systems	65-3-9	50.00
18	Missing or inoperative		
19	lamps	65-3-9	25.00
20	Missing lamps on projecting		
21	loads	65-3-9	50.00
22	Missing or inoperative		
23	turn signal	65-3-9	25.00
24	Unsafe loading	65-3-8	100.00
25	Excessive steering wheel		

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underscored material = new  
[bracketed material] = delete

1	play	65-3-9	100.00
2	Steering column defects	65-3-9	100.00
3	Steering box or steering		
4	system defects	65-3-9	100.00
5	Suspension system defects	65-3-9	50.00
6	Defective springs or spring		
7	assembly	65-3-9	50.00
8	Defective tires--steering		
9	axle	65-3-9	100.00
10	Defective tires--other axles	65-3-9	30.00
11	Defective wheels and rims	65-3-9	50.00
12	Defective or missing		
13	windshield wipers	65-3-9	30.00
14	Defective or inoperative		
15	emergency exit--bus	65-3-9	100.00.

C. DRIVER OUT-OF-SERVICE VIOLATIONS

17	COMMON NAME OF [OFFENSE]	SECTION VIOLATED	PENALTY ASSESSMENT
18	<u>VIOLATION</u>		
19	Driver's age	65-3-7	30.00
20	Driver not licensed for		
21	type of vehicle being		
22	operated	65-3-7	30.00
23	Failure to have valid		
24	commercial driver's license		
25	in possession	66-5-59	30.00

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1	No waiver of physical		
2	disqualification		
3	in possession	65-3-7	30.00
4	Sickness or fatigue	65-3-8	100.00
5	Driver disqualification	65-3-7	500.00
6	Exceeding the 10-hour		
7	driving rule	65-3-11	100.00
8	Exceeding the 15-hour on		
9	duty rule	65-3-11	100.00
10	Exceeding the 60 hours in 7		
11	days on duty rule	65-3-11	100.00
12	Exceeding 70 hours in 8		
13	days on duty rule	65-3-11	100.00
14	False log book	65-3-11	100.00.

**D. HAZARDOUS MATERIALS OUT-OF-SERVICE VIOLATIONS**

16	COMMON NAME OF [OFFENSE]	SECTION VIOLATED	PENALTY ASSESSMENT
17	<u>VIOLATION</u>		
18	Placarding violations	65-3-13	250.00
19	Cargo tank not meeting		
20	specifications	65-3-13	250.00
21	Internal valve operation		
22	violations	65-3-13	250.00
23	Hazardous materials		
24	packaging violations	65-3-13	250.00
25	Insecure load--hazardous		

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1	materials	65-3-13	250.00
2	Shipping papers violations	65-3-13	30.00
3	Shipment of forbidden		
4	combination of hazardous		
5	materials	65-3-13	250.00
6	No hazardous waste manifest	65-3-13	30.00
7	Bulk packaging marking		
8	violations	65-3-13	30.00
9	Cargo tank marking violations	65-3-13	30.00."

10 Section 19. Section 66-8-116.3 NMSA 1978 (being Laws  
11 1989, Chapter 320, Section 5, as amended) is amended to read:

12 "66-8-116.3. PENALTY ASSESSMENT [~~MISDEMEANORS~~]

13 VIOLATIONS--ADDITIONAL FEES. --In addition to the penalty  
14 assessment established for each penalty assessment  
15 [~~misdeemeanor~~] violation, there shall be assessed:

16 A. in a county without a metropolitan court, ten  
17 dollars (\$10.00) to help defray the costs of local government  
18 corrections;

19 B. a court automation fee of ten dollars (\$10.00);

20 C. a traffic safety fee of three dollars (\$3.00),  
21 which shall be credited to the traffic safety education and  
22 enforcement fund;

23 D. a judicial education fee of one dollar (\$1.00),  
24 which shall be credited to the judicial education fund;

25 E. a brain injury services fee of five dollars

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1 (\$5.00), which shall be credited to the brain injury services  
2 fund; ~~and~~

3 F. a court facilities fee as follows:  
4 in a county with a metropolitan court . . . . . 24.00;  
5 in any other county . . . . . 10.00; and

6 G. if the traffic citation is issued by use of an  
7 automated enforcement system, an automation fee of . . 25.00."

8 Section 20. Section 66-8-117 NMSA 1978 (being Laws 1978,  
9 Chapter 35, Section 525, as amended) is amended to read:

10 "66-8-117. PENALTY ASSESSMENT ~~[MISDEMEANORS]~~ VIOLATIONS--  
11 OPTION--EFFECT.--

12 A. Unless a warning notice is given, at the time of  
13 making an arrest for any ~~[penalty assessment misdemeanor]~~  
14 violation of the Motor Vehicle Code, the arresting officer  
15 shall offer the alleged violator the option of accepting a  
16 penalty assessment. The violator's signature on the penalty  
17 assessment notice constitutes an acknowledgment of guilt of the  
18 offense stated in the notice.

19 B. Except for penalty assessments made under a  
20 municipal program authorized by Section 66-8-130 NMSA 1978,  
21 payment of any penalty assessment must be made by mail to the  
22 division within thirty days from the date of arrest. Payments  
23 of penalty assessments are timely if postmarked within thirty  
24 days from the date of arrest. The division may issue a receipt  
25 when a penalty assessment is paid by currency, but checks

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1 tendered by the violator upon which payment is received are  
2 sufficient receipt.

3 C. No record of any penalty assessment payment is  
4 admissible as evidence in any court in any civil action."

5 Section 21. Section 66-8-119 NMSA 1978 (being Laws 1968,  
6 Chapter 62, Section 159, as amended) is amended to read:

7 "66-8-119. PENALTY ASSESSMENT REVENUE--DISPOSITION.--

8 A. The division shall remit all penalty assessment  
9 receipts, except receipts collected pursuant to Subsections A  
10 through F of Section 66-8-116.3 NMSA 1978, to the state  
11 treasurer for credit to the general fund.

12 B. The division shall remit all penalty assessment  
13 fee receipts collected pursuant to:

14 (1) Subsection A of Section 66-8-116.3 NMSA 1978  
15 to the state treasurer for credit to the local government  
16 corrections fund;

17 (2) Subsection B of Section 66-8-116.3 NMSA 1978  
18 to the state treasurer for credit to the court automation fund;

19 (3) Subsection C of Section 66-8-116.3 NMSA 1978  
20 to the state treasurer for credit to the traffic safety  
21 education and enforcement fund;

22 (4) Subsection D of Section 66-8-116.3 NMSA 1978  
23 to the state treasurer for credit to the judicial education  
24 fund;

25 (5) Subsection E of Section 66-8-116.3 NMSA 1978

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1 to the state treasurer for credit to the brain injury services  
2 fund; [~~and~~]

3 (6) Subsection F of Section 66-8-116.3 NMSA 1978  
4 to the state treasurer for credit to the court facilities fund;  
5 and

6 (7) Subsection G of Section 66-8-116.3 NMSA 1978  
7 to the state treasurer for credit to the municipality issuing  
8 the citation. "

9 Section 22. Section 66-8-123 NMSA 1978 (being Laws 1978,  
10 Chapter 35, Section 531, as amended) is amended to read:

11 "66-8-123. CONDUCT OF ARRESTING OFFICER--NOTICES BY  
12 CITATION.--

13 A. Except as provided in Section 66-8-122 NMSA 1978,  
14 unless a penalty assessment or warning notice is given,  
15 whenever a person is arrested for any violation of the Motor  
16 Vehicle Code or other law relating to motor vehicles  
17 [~~punishable as a misdemeanor~~], the arresting officer, using the  
18 uniform traffic citation, shall complete the information  
19 section and prepare a notice to appear in court, specifying the  
20 time and place to appear, have the arrested person sign the  
21 agreement to appear as specified, give a copy of the citation  
22 to the arrested person and release him from custody.

23 B. Whenever a person is arrested for violation of a  
24 penalty assessment [~~misdemeanor~~] violation and elects to pay  
25 the penalty assessment, the arresting officer, using the

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1 uniform traffic citation, shall complete the information  
2 section and prepare the penalty assessment notice indicating  
3 the amount of the penalty assessment, have the arrested person  
4 sign the agreement to pay the amount prescribed, give a copy of  
5 the citation along with a business reply envelope addressed to  
6 the motor vehicle division, Santa Fe to the arrested person and  
7 release him from custody. No officer shall accept custody or  
8 payment of any penalty assessment. If the arrested person  
9 declines to accept a penalty assessment notice, the officer  
10 shall issue a notice to appear.

11 C. The arresting officer may issue a warning notice,  
12 but shall fill in the information section of the uniform  
13 traffic citation and give a copy to the arrested person after  
14 requiring his signature on the warning notice as an  
15 acknowledgment of receipt. No warning notice issued under this  
16 section shall be used as evidence of conviction for purposes of  
17 suspension or revocation of license under Section 66-5-30 NMSA  
18 1978.

19 D. In order to secure his release, the arrested  
20 person must give his written promise to appear in court or to  
21 pay the penalty assessment prescribed or acknowledge receipt of  
22 a warning notice.

23 E. Any officer violating this section is guilty of a  
24 misconduct in office and is subject to removal.

25 F. A law enforcement officer who arrests a person

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1 without a warrant for a misdemeanor violation of the Motor  
2 Carrier Act, the Criminal Code, the Liquor Control Act or other  
3 New Mexico law may use the uniform traffic citation, issued  
4 pursuant to procedures outlined in Subsections B through E of  
5 Section 31-1-6 NMSA 1978 [~~Subsections B through E~~] in lieu of  
6 taking him to jail. "

7 Section 23. Section 66-8-126 NMSA 1978 (being Laws 1978,  
8 Chapter 35, Section 534) is amended to read:

9 "66-8-126. FAILURE TO OBEY NOTICE TO APPEAR. --

10 A. It is [~~a misdemeanor~~] unlawful for any person to  
11 violate his written promise to appear in court given to an  
12 officer upon issuance of a uniform traffic citation regardless  
13 of the disposition of the charge for which the citation was  
14 issued.

15 B. A written promise to appear in court may be  
16 complied with by appearance of counsel. "

17 Section 24. Section 66-8-130 NMSA 1978 (being Laws 1978,  
18 Chapter 35, Section 538, as amended) is amended to read:

19 "66-8-130. ALL TRAFFIC CITATIONS TO CONFORM -  
20 MUNICIPALITIES MAY PASS ORDINANCE TO ESTABLISH SIMILAR  
21 PROGRAM --

22 A. The uniform traffic citation shall be used by all  
23 state and local agencies enforcing laws and ordinances relating  
24 to motor vehicles. Any municipality may, by passage of an  
25 ordinance, establish a municipal penalty assessment program

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1 similar to that established in Sections 66-8-116 through  
2 66-8-117 NMSA 1978 for violations of provisions of the Motor  
3 Vehicle Code. Every municipality that has adopted an ordinance  
4 to establish a penalty assessment program shall assess on all  
5 penalty assessment ~~[misdemeanors]~~ violations after January 1,  
6 1984, in addition to the penalty assessment, a penalty  
7 assessment fee of ten dollars (\$10.00) to be deposited in a  
8 special fund in the municipal treasury for use by the  
9 municipality only for municipal jailer training; for the  
10 construction planning, construction, operation and maintenance  
11 of the municipal jail; for paying the costs of housing that  
12 municipality's prisoners in other detention facilities in the  
13 state; or for complying with match or contribution requirements  
14 for the receipt of federal funds relating to jails. Such a  
15 municipal program shall be limited to violations of municipal  
16 traffic ordinances.

17 B. All penalty assessments under a municipal program  
18 authorized by this section shall be processed by the municipal  
19 court, and all fines and fees collected shall be deposited in  
20 the treasury of the municipality. A copy of each penalty  
21 assessment processed shall be forwarded to the division within  
22 ten days of completion of local processing for posting to the  
23 driver's record. With the prior approval of the director, the  
24 required information may be submitted to the division by  
25 electronic means in lieu of forwarding copies of the penalty

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assessments.

C. Each agency shall provide itself with copies conforming exactly in size and format with the uniform traffic citation prescribed by the director, and any alterations to conform with local conditions must be approved by the director. "

Section 25. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2004.